NOTIFICATION

The following Bye-laws made by the Municipal Council, Shertallai under Section 12 of the Travancore-Cochin Local Authorities Entertainment Tax Act VI of 1951 and approved by Government in Order R. Dis. No. 26784/55/DD dated 28-2-1956 are hereby published for the information of the public.

CHAPTER I

Definitions:

1. For the purpose of these byelaws,

(a) Entertainment shall include a series of entertainments held on any one day, reckoned from sunrise to sunrise.

(b) Act means, the Travancore-Cochin Local Authorities Entertainment tax Act VI of 1951.

(c) Executive Authority means the Executive Authority appointed under the Travancore-District Municipalities Act XXIII of 1116.

CHAPTER II

2. The Proprietor of an entertainment or series of entertainments shall,

(a) not less than 3 days before the commencement of the entertainment or the first of such series of entertainment if they are to be held for not more than seven days in the aggregate and,

(b) not less than seven days before the commencement of the first series of entertainment if they are to be held for more than 7 days in the aggregate,

intimate in writing to the Executive Authority about the holding of the entertainment or such series of entertainment specifying the time and place for the conduct thereof and shall also furnish such other particulars regarding the duration of the entertainment, the class accommodation and payment of admission thereto and the manner in which the admissions will be checked.

Provided that the Executive Authority may for sufficient reasons to be recorded in writing condone the delay in presenting the application referred to above if the application is made at least 24 hours before the commencement of 1st of the series of entertainments.

3. The Executive Authority may issue such directions as he deems fit in respect of the time and place of the holding of the entertainment and the supervision thereof.

G. 976.

4. No entertainment shall be held between 2 A. M. and 6 A. M. without the special sanction of the Executive Authority.

5. Entertainment tax levied by the Municipal Council, under Section 3 of the Act in the case of payment of admission to any theatre, Cinematograph exhibition, circus, or any other kind of entertainment., shall be collected at the rate of 12½% of the payment.

6. The Proprietor of an entertainment shall at least 24 hours before the commencement of the entertainment or series of entertainments, produce before the Executive Authority the different classes of tickets that he proposes to issue together with a statement with regard to the rate of payment for admission in each class beginning and ending serial Nos. of each class and the tax if any, payable on the aggregate and the particulars of complementary tickets or free passes proposed to be issued. He shall also pay the entertainment tax in advance to the Executive Authority.

7. The Executive Authority, after verifying the particulars given in the statement mentioned in Rule 6 shall receive the tax payable on those tickets and shall affix the seal of the Municipality on each ticket produced, and return the same to the Proprietor.

8. On every tickets produced before the Executive Authority under Rule 6, it shall be legibly printed the following particulars:

(a) the name of the Proprietor in full.

(b) the class if any to which it is sought to be issued.

(c) the price of admission including the tax payable on it with a statement to the effect that it is inclusive of entertainment tax.

(d) the entertainment tax if any.

(e) the number of persons to be admitted.

(f) serial No. of each ticket.

9. In case separate stamps or labels denoting the tax are decided to be issued, the Executive Authority shall arrange for selling the stamps or labels to the Proprietor on payment of full price.

10. The maximum number of complimentary tickets or free passes which can be issued for an entertainment shall be fixed by the Executive Authority from time to time and in no case it shall exceed 5% of the seating capacity of the respective class.

11. (1) The Executive Authority may from time to time delegate any member or members of the staff to check or verify the issue of tickets at the entertainment and see that the provisions of these bye-laws are not violated.

(ii) The Proprietor of the entertainment shall afford all reasonable facilities to the persons so delegated by the Executive Authority in carrying out their duty.

12. The Proprietor of an entertainment or series of entertainments shall furnish to the Council a cash security of not less than Rs. 100 or two personal securities of Rs. 100 each approved by the Executive Authority to ensure prompt payment of the tax and the said security or securities shall be refunded or cancelled as the case may be on remittance of the entertainment tax in full.

13. The Proprietor of the entertainment shall,

(a) before the expiry of 24 hours after the conclusion of the entertainment or the last of the entertainment if they are held for not more than 7 days of the aggregate,

(b) on each monday before 5 P. M. if the entertainments are continuing for more than 7 days,

submit a statement in form II of the Local Authorities Entertainment Tax Rules 1951,

(c) and shall if so required produce the accounts of the tickets printed and sold and shall surrender, counterfoils of the sold tickets, tickets collected at the gate etc. to the Checking Officers.

14. The Executive Authority may require a Proprietor to keep registers of payment for admission, the entertainment tax paid, and such other particulars regarding collection of entertainment tax. The Executive Authority may require to issue tickets in such form and manner as he may prescribe and it shall be the duty of the Proprietor to comply with the requirements.

15. Every Proprietor or Manager of an entertainment, the tax in respect of which is compounded for a consolidated payment under Section 4 of the Act, shall remit the full amount of the tax in advance or in such instalments as may be decided by the Executive Authority.

16. No Proprietor shall when once the tax has been compounded under Section 4 of the Act, alter the rate of admission to the different classes and the seats and number of seats in each class, the place of entertainment and such other particulars previously furnished without previous sanction of the Council.

CHAPTER III.

17. If the Proprietor of an entertainment proposes to claim the benefit of Section 7 of the Act on the ground that the entertainment is exempt from tax on one or more of the grounds mentioned in Section 7, he shall at least before 7 days of the commencement of the entertainment or the first of the series of entertainment, intimate the fact in writing to the Executive Authority. He shall also state the nature of the entertainment,

the mode of and such utilisation of the proceeds of the entertainment, other particulars as may be required by the Executive Authority.

18. (i) The Executive Authority shall make such enquiry as he deems fit as regards the validity and bonafides of grounds on which exemption is claimed and shall record his views thereon and if he is satisfied regarding the ground, he may grant exemption.

(ii) If the Executive Authority on enquiry finds that the exemption claimed can not be granted, he shall intimate the fact to the Proprietor of the entertainment.

(iii) If the Proprietor is aggrieved by the order of the Executive Authority, he may within 7 days of the receipt of intimation thereof, prefer an appeal before the Municipal Council.

(iv) In the meanwhile the Proprietor of the entertainment may on protest deposit the entertainment tax or give sufficient security to the satisfaction of the Executive Authority and conduct the entertainment.

19. The Council shall on considering the appeal preferred under bye-laws 16 (iii) pass necessary orders on the matter and the Executive Authority shall intimate the decision of the Council to the Proprietor of the entertainment. If the Council allows the appeal the amount of entertainment tax deposited, or security if any under bye-law 16 (iv) shall be refunded to the Proprietor of the entertainment.

20. The decision of the Council shall be final subject to the decision of the Government under Section 7 (2) on the matter.

21. If the decision of the Council is one rejecting the application for exemption by the Proprietor, the rule contained in these bye-laws will apply *mutatis mutandis* to the entertainment.

Chapter IV.

22. Local Authorities Entertainment tax Rules made by the Government from time to time under Section 11 of the Act shall be strictly followed.

23. Whoever commits the breach of the above bye-laws shall be punished with fine which may extend to Rs. 50 and in the case of continuing breach with fine which may extend to Rs. 15 for every day during which the breach continues after conviction for the first breach.

24. These bye-laws will come into force immediately after the publication in the Government Gazette.

Municipal Office,
Shertallai, 20-3-1956.

K. V. Kumaran,
Commissioner.

Gazette No. 14 dated 3rd April 1956.

NOTIFICATION.

RULES MADE BY THE HIGH COURT OF TRAVANCORE-COCHIN UNDER SECTION 47 OF THE KANOM TENANCY ACT, XXIV OF 1955.

28th March 1956.

In exercise of the powers conferred by Section 47 of the Travancore-Cochin Kanom Tenancy Act, XXIV of 1955, the High Court hereby makes the following rules to regulate the proceedings under the said Act.

1. The Summary suits contemplated by Part D of Chapter III of the Act shall be filed as "Small Causes".

2. In the Munsiffs' Courts, these Summary suits shall be consecutively numbered with the other small cause suits filed therein and entered in the same register. In the Sub Courts and District Courts, a separate register shall be opened for these summary suits in the form prescribed for small cause registers in Munsiffs' Courts.

3. In respect of deposits of rent etc. which may be made by Kanom tenant under Part C of Chapter III of the Act, a register shall be opened in all the Munsiffs' Courts in the form appended hereunder and the applications entered therein as they are received. No application presented under this rule shall be accepted unless it contains the particulars required to fill up the register.

4. Applications made under Part C and plaints presented under Part D of Chapter III of the Act are exempt from Court Fees, when the claim is for recovery of arrears which accrued due within twelve months preceding the presentation of the petition or the institution of the suit as the case may be. All other plaints presented under Part D of Chapter III of the Act shall be taxed in the usual course under the Court Fees Act. Process Fees and mileage if any, shall be levied in respect of all processes to be issued under Parts C and D at Small Cause rates in all the Courts.

5. All written notices by Jenmis to Kanom tenants and *vice versa* to be served through the Munsiffs' Courts under the Act shall be presented to the Court with an application requesting the service of the same. These applications are exempt from payment of court fees. Such applications when received in court shall be numbered as "Miscellaneous petitions" in continuation of other miscellaneous petitions received and entered in the register prescribed therefor. The usual process fees at the ordinary rates shall be levied from the party filing the demand or notice and service thereof effected in due course. A notice signed by the Head Ministerial Officer shall be put up on the Court's notice board intimating whether the demand or notice has been duly served or not. A copy of such notice shall be served on Jenmi or Kanom tenant concerned if he deposits the necessary process fees etc.

6. The rules in force on the subject of awarding Advocate's fees in Small Cause suits will be applicable also to suits under Part D of Chapter III of the Act.

7. Every receipt granted by the Courts under Section 24 of the Act shall specify the number and year of the application in which the payment is made, as entered in the deposit register (appended hereunder).

G. 1017

Register of applications for depositing Michavarom and renewal fees or other dues received in the Munsiffs' Court of .... during the year ....

Serial No. of the application in the Register.	Date of receipt of application in Court.	Name and description of the Kanom-tenant making the application.	Name of the Jenmi and description when known, and in cases of doubt, the name and description of all the rival claimants.	Local name, description and extent of the holding.	Particulars of the tenure on which the holding is held by the Kanom-tenant.	Amount of michavarom or renewal fees due up to date with particulars.	Abstract statement of the circumstances under which the application is made.	Date for parties to appear.	Date for final order.	Order of the Court.	Date of payment of deposit to the party entitled.	Remarks.
1	2	3	4	5	6	7	8	9	10	11	12	13

2

High Court of Travancore-Cochin,
Ernakulam.

(By order)

K. N. KESAVAN NAMBOODIRIPAD,
Registrar.

Gazette No. 14 dated 3rd April 1956.

PART III.

NOTIFICATION.

Rules framed by the High Court of Travancore-Cochin under Section 41 of the Special Marriage Act, 1954. (Act 43 of 1954).

In exercise of the powers conferred by Section 41 of the Special Marriage Act, 1954 (Central Act 43 of 1954), the High Court hereby makes the following rules to regulate proceedings under the said Act: —

1. **Form of proceedings.** The following proceedings under the Act shall be initiated by original petitions:—

(i) Under Section 22 for restitution of conjugal rights;

(ii) Under Sub-section (i) of Section 23 for judicial separation;

(iii) Under Sub-section (ii) of Section 23 for rescinding a decree for judicial separation;

(iv) Under Sub-section (i) of Section 24 for declaring a marriage null and void;

(v) Under Sub-section (ii) of Section 24 for declaring the registration of a marriage of no effect;

(vi) Under Section 25 for annulment of a marriage by a decree of nullity;

(vii) Under Section 27 for divorce;

(viii) Under Section 28 for divorce by mutual consent;

(ix) Under Section 38 to make, revoke or suspend, or vary an order or provision regarding the custody, maintenance or education of minor children.

2. Every other proceedings subsequent to the petition shall be initiated by an interlocutory application.

3. Every petition, application, affidavit, decree or order under the Act shall be headed by a cause title in Form No. I and shall set forth the provision of the Act or of these rules under which it is made.

4. **Contents of petitions:** — (a) Every petition shall state—

(i) the place and the date of the marriage, the names of the parties and their occupation, the place and the address where the parties reside or last resided together within the jurisdiction of the court;

(ii) the names of the children, if any, of the marriage together with their dates of birth or ages;

(iii) if prior to the date of the petition there has been any proceeding under the Act between the parties to the petition, the full particulars thereof;

(iv) if the petition is for restitution of conjugal rights, the date on or from which and the circumstances under which the respondent withdrew from or terminated conjugal relationships with the petitioner;

(v) if the petition is for judicial separation or divorce the matrimonial offence alleged or other grounds upon which the relief is sought, together with full particulars thereof so far as such particulars are known to the petitioner, *e. g.*

(1) in the case of alleged desertion the date and the circumstances under which it began;

(2) in the case of presumption of death, the last place where the parties lived together and date when and the place where the respondent was last seen or heard of as alive and the steps, if any, taken to ascertain his whereabouts;

(3) in the case of cruelty or adultery the specific acts of cruelty or adultery and the occasions when and the places where such acts were committed;

(4) in the case of incurable unsoundness of mind, the time when such unsoundness began to manifest itself, the nature and period of any curative steps taken, together with the name and address of the persen who treated for such unsoundness of mind;

(5) in the case of leprosy or venereal disease in a communicable form, when such ailment began to manifest itself, the nature and the period of the curative steps taken, together with the name and address of the person who treated for such ailment and that such ailment was not contracted from the petitioner;

(vi) if the petition is for a decree of nullity of marriage on the ground specified in clause (ii) or clause (iii) of Section 25 of the Act, the time when the facts relied on were discovered and whether or not marital intercourse with the consent of the petitioner took place after the discovery of the said facts;

(b) The petition shall set out at the end the relief or reliefs sought, including any claim for—

(i) damages against the co-respondent;

(ii) custody, care and maintenance of children;

(iii) permanent alimony and maintenance; and

(iv) costs.

Where a claim is made under (iii) the petition shall specify the annual or capital value of the husband's property, the amount of his annual earnings and other particulars relating to his financial resources.

5. An application under the provisio to section 29 of the Act for leave to present a petition for divorce before three years have passed from the date of the marriage, shall be supported by an affidavit setting forth the circumstances relied on as constituting exceptional hardship to the petitioner or exceptional depravity on the part of the respondent.

6. When a petition is admitted the chief ministerial officer of the court shall assign a distinctive number to the petition and all subsequent proceedings on the petition shall bear that number.

7. Along with the petition, the petitioner shall furnish a copy thereof for service on the respondent and if a co-respondent has been impleaded, an additional copy for service on him, together with the fee prescribed under the Court Fees Act for service of notices.

8. (i) Notice of the petition shall be in Form No. II for the settlement of issues and shall require respondent and the co-respondent, if one is named in the petition, to enter appearance in person or by pleader and file a written statement not less than seven days before the day fixed in the notice.

(ii) The notice together with a copy of the petition shall be served on the respondent and the co-respondent if named, in the manner prescribed for service of summonses in suits, not less than 21 days before the day appointed therein.

9. **Co-respondent.** Where a husband's petition alleges adultery on the part of the respondent, the alleged adulterer shall, if he is living, be made a co-respondent in the petition, provided however, than in case the adulterer's name, identity or whereabouts is unknown to the petitioner in spite of reasonable enquiries made and the court is satisfied that it is just and expedient so to do, it shall, on the application of the petitioner, dispense with the naming of the co-respondent.

10. **Intervention.** (i) Any person other than a party to the petition seeking to show cause against granting the relief prayed for in the petition shall apply to the court for leave to intervene. The application shall be supported by an affidavit setting forth the facts on the basis of which leave to intervene is prayed for.

(ii) Notice of the application together with a copy of the affidavit shall be served on all parties who shall be at liberty to file counter-affidavits.

(iii) If, after hearing all the parties, the court grants leave, the intervener may take part in the trial subject to such terms and conditions as the court may deem fit to impose.

(iv) If the court is satisfied that the intervention was made without sufficient cause it may order the applicant to pay the whole or part of the costs occasioned by the intervention.

11. **Damages and costs against co-respondent—**

(i) Where damages are claimed the court shall assess the damages and direct in what manner the damages, if any, awarded shall be paid or applied;

(ii) The court may also direct that the whole or any part of the costs of the petition shall be paid by the co-respondent;

(iii) The court may assess damages and make an order for payment thereof or of costs notwithstanding that the respondent or the co-respondent or both of them have remained *ex parte*.

12. The court shall dismiss a petition for divorce by mutual consent, if no motion is made by both the parties to the petition within the time prescribed in sub-section (2) of Section 28 of the Act.

13. **Appeals.** (1) An appeal to the District Court from the decision of the Marriage Officer under section 8 or section 17 of the Act shall be in the form of a memorandum which shall be accompanied by a certified copy of each of the following documents:

(i) the notice of the intended marriage;

(ii) the objection recorded by the Marriage Officer; and

(iii) the decision of the Marriage Officer on the objection.

(2) The District Court may call for the other records of the enquiry from the Marriage Officer.

(3) The memorandum of appeal shall be accompanied also by the process fee prescribed under the Court Fees Act for service of notice of the appeal on the objector.

(4) It shall be open to the District Court to take such additional evidence as it considers necessary in the interests of justice.

14. (1) Appeals to the High Court from the decrees and orders of the District Court shall be governed by the rules of the High Court, Travancore-Cochin.

(2) In every such appeal notice shall be issued to the co-respondent and the intervener, if any.

FORM No. I.

(*Rule 3*)

In the Court of the District Judge.

ORIGINAL PETITION No. /19 .

In the matter of the Special Marriage Act, 1954.

A B	Petitioner
C D	Respondent
E F	Co-Respondent

Petition under Section of the Special Marriage Act, 1954 and Rule of the Rules under Special Marriage Act.

FORM No. II.

(*Rule 8*)

In the Court of the District Judge

ORIGINAL PETITION No. of 19

In the matter of the Special Marriage Act, 1954.

A. B.	Petitioner.
C. D.	Respondent.
E. F.	Co-Respondent.

C. D.	Respondent.
E. F.	Co-Respondent.

Petition presented on
Petition filed on
Notice issued on

Whereas on the day of 19 the above mentioned petitioner filed a petition against the respondent for

(specify the relief) you are hereby required to appear in this court on the day of 19 at 11 A.M. in person or by pleader duly instructed and able to answer all material questions relating to the above proceeding.

Also take notice that in default of your appearance on the aforesaid day the issues will be settled and the petition heard and determined in your absence. You shall also bring with you or send by your pleader any documents which the petitioner desires to inspect and any documents on which you intend to rely in support of your defence.

You are required to file a written statement in court on or before the day of 19 . Given under my hand and the seal of the Court, this day of 19 .

District Judge.

NOTE. A copy of the petition accompanies this notice.

This notice should be served not less than 21 days before the day fixed above for settlement of issues.

Should you apprehend your witnesses will not attend of their own accord you can have summons issued from this court to compel the attendance of any witness and the production of any document that you have a right to call on the witness to produce, on applying to the court and on depositing the necessary expense.

This notice has been taken out by

Advocate/Pleader for the petitioner.

High Court, Ernakulam,
28-3-1955.

K. N. KESAVAN NAMBOODIRIPAD,
Registrar.

Gazette No. 14 dated 3rd April 1956.

PART I

NOTIFICATION

D. Dis. 1735/56/DD.

23rd March 1956.

S. R. O. 23. In Pursuance of clause (c) of sub-section 2 of Section 7 of the Payment of Wages Act, 1936 (Central Act IV of 1936), Government hereby authorise M/s. Indian Aluminium Co., Ltd., Alwaye to make deductions at half the value of monthly bus passes supplied by the Company from the wages of those employed persons of the Company coming from Ernakulam North and Alwaye and who are supplied bus passes by the said Company.

By order of his Highness
the Raj Pramukh,
V. V. JOSEPH,
Secretary to Government.

Government Secretariat,
Development Department,
(Labour Section),
Trivandrum.

G. 989

Gazette No. 14 dated 3rd April 1956.

PART I

NOTIFICATION

No. T4-9333/54/PWC. *26th March* 1956.

S. R. O. 24. Under Rule 3 (1) of the Motor Vehicles International Circulation Rules 1933, the Government of Travancore-Cochin hereby appoint the Inspector-General of Police and the Superintendent of Police, Traffic and Taxation, as competent authorities.

By order of His Highness
the Raj Pramukh,
G. Madhavan,
Secretary to Government.

The Government Secretariat, Transport Section,
Public Works & Communications Department,
Trivandrum.

G. 1001

Gazette No. 14 dated 3rd April 1956.

PART I **Section I.**

NOTIFICATION

LD (b)2-1023/56/Law. *28th March* 1956.

The Bar Councils (Validation of State Laws) Act, 1956 (Central Act 4 of 1956) published in the Gazette of India, Extra-ordinary, Part II, Section 1 dated 13th March, 1956 is hereby republished for general information. The Bill as passed by the Houses of the Parliament received the assent of the President on the 13th March, 1956.

By order of His Highness
the Raj Pramukh,
P. NARAYANASWAMI,
Deputy Secretary to Government.

Government Secretariat,
Law Department, Trivandrum.

THE BAR COUNCILS (VALIDATION OF STATE LAWS)
ACT, 1956.
(4 of 1956)
AN
ACT

to validate certain State laws amending the Indian Bar Councils Act, 1926.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Bar Councils (Validation of State Laws) Act, 1956.

2. **Validation of certain State laws amending the Indian Bar Councils Act, 1926 (38 of 1926).**—The laws specified in the Schedule shall be, and shall be deemed always to have been, as valid as if the provisions contained therein had been enacted by Parliament.

THE SCHEDULE

(*See* section 2)

1. The Indian Bar Councils (Andhra Amendment) Act, 1954 (President's Act VII of 1954).
2. The Indian Bar Councils (Uttar Pradesh Amendment) Act, 1950 (U. P. Act XXIV of 1950).
3. The Indian Bar Councils (Madras Amendment) Act, 1954 (Madras Act XXXV of 1954).

Gazette No. 14 dated 3rd April 1956.

PART I

NOTIFICATION.

L2-6283/56/DD. *17th March 1956.*

The following decision of the Labour Appellate Tribunal of India in Appeal Nos. Madras 149 and 151 of 1955 is hereby published for the information of all concerned.

By order of His Highness
the Raj Pramukh,

V. V. JOSEPH,
Secretary to Government.

Government Secretariat,
Development Department,
Labour Section, Trivandrum.

In the Honourable Labour Appellate Tribunal of India, Madras.

APPEAL Nos. MADR. 149 and 151 of 1955.

Appeal No. Madr. 149 of 1955.

The Management of the Balarama Varma Textiles Ltd., Shencottah. — *Appellant.*

Versus

1. M. Kamatchia Pillai, No. 33, Spinning Deptt.
2. Manickam, No. 12, Spinning Deptt.
3. Pukalum Perumal, No. 69, Spinning Deptt.
4. Kuppuswamy, No. 73, Spinning Deptt.
5. Alagusundaram, No. 78, Spinning Deptt. (All workers who were dismissed from the Balarama Varma Textiles Ltd., Shencottah) — *Respondents.*

Appeal No. Madr. 151 of 1955.

1. M. Kamatchia Pillai, No. 33, Spinning Deptt.
2. Manickam, No. 12, Spinning Deptt.
3. Pukalum Perumal, No. 69, Spinning Deptt.
4. Kuppuswamy No. 73, Spinning Deptt.
5. Alagusundaram, No. 78, Spinning Deptt. C/o. Textile Workers' Union, Shencottah. — *Appellants.*

Versus

The Management of the Balarama Varma Textiles Ltd., Shencottah. *Respondent*

In the matter of cross appeals against the award of the Industrial Tribunal, Trivandrum in Industrial Dispute No. 92 of 1955 made on 3rd September, 1955 and published in the Travancore-Cochin State Gazette No. 39 dated 4th October, 1955, Part I.

MADRAS DATED THE 29TH DAY OF FEBRUARY 1956.

PRESENT:

Sri P. D. Vyas, *President.*

Sri Mahmood Sheriff. *Member.*

APPEARANCES:

Sri K. V. Sankaran, Advocate for the Workmen.

Sri P. R. Govindaswamy Iyer, Law Officer, Balarama Varma Textiles Ltd., Shencottah for the Management.

State: Travancore-Cochin.
Industry: Textile (Cotton).

DECISION.

These are cross appeals against the award of the Industrial Tribunal, Trivandrum (Shri K. N. Kunjukrishna Pillai) in Industrial Dispute No. 92 of 1955 arising from the complaint filed under Section 33A of the Industrial Disputes Act, 1947 by certain employees of the Balarama Varma Textiles Ltd. These employees complained that when industrial dispute No. 64 of 1955 was pending for adjudication, the Management dismissed them without obtaining the written permission of the Industrial Tribunal and thus contravened the provisions of Section 33 of the Industrial Disputes Act. The Management on the other hand contended that the complainants were not concerned in the said industrial dispute pending for adjudication and that even otherwise they were dismissed for an alleged misconduct after due enquiry. The Industrial Tribunal by his award dismissed the petition under Section 33A of the Act and at the same time he held that "they are entitled to get any amount otherwise due to them over and above compensation under Section 25 of the Industrial Disputes Act." Both parties being aggrieved by this award have filed these cross appeals.

2. The Management's representative repeated before us the same preliminary objection, namely that the complainants were not concerned in the dispute pending for adjudication and hence there did not arise any question of taking the written permission of the Industrial Tribunal under Section 33 of the Industrial Disputes Act. It appears that the complainants concerned are members of the Shencottah Textile Workers' Union which was not a party to the Industrial Dispute No. 64 of 1955 pending for adjudication. In the said Industrial Dispute No. 64 of 1955, the subject-matter of adjudication was the dismissal of one worker named Chudalayandi, but the dispute as referred to for adjudication was as between the Workmen and the Management in regard to the dismissal of the said worker. Whatever may be the Uinon appearing in the said reference for workmen, after all the dispute was between the workers in general and the Management and hence it cannot be said that the complainants simply because they belonged to another Union, had no interest or concern in the same. The Management's representative pointed out that these are two rival Unions but there is nothing to show that the workers belonging to the rival Union had expressed no concern in the dispute referred to for adjudication and so long as it remained a dispute as between the Management and the worker in general, every worker irrespective of the Union to which he belongs has an interest in the same. In the case of Eastern Plywood Mfg. Co., Ltd., *vs.* Eastern Plywood Mfg. Workers' Union (1952 I L. L. J. p. 628) it has been held that where a dispute though concerning an individual is made a collective one, the other workmen would certainly be concerned therein, for, they are or must be considered to be parties to the proceedings. Even if a particular Union is shown in the order of reference as representing the workmen, it in no way detracts from the dispute being a collective one as it can be seen from the decision of our Tribunal in the case of the Rohtas Industries Ltd., *Vs.* K. N. Vyahuta (1953 II L. L. J. p. 679). The Industrial Tribunal, therefore, has rightly held that the complainants are concerned in the Industrial Dispute No. 64 of 1955 and that their complaint under Section 33A of the Act is sustainable in view of the fact that the Management failed to obtain the requited permission and thus contravened the provisions of Section 33 of the Act.

3. Coming next to the merits of the case, six workmen including the five complainants, have been dismissed on 13-5-1955 for an alleged strike on 20-3-1955. The relevant facts appear from the show cause notice (Ex. A) dated 30-3-1955 which runs as under:—

> "As the Electricity authorities have informed us that there will be no current supply to us on 23-3-55 on account of some important work in their Sub station, the Management have decided to have the weekly holiday on the above date and that in its place Sunday 20-3-55 will be a working day and the Management

had accordingly informed the Factories Inspector and put up a notice to the workmen before the close of the I shift. Moreover even on 19-3-55 when some workers came to the Manager and objected to work on Sunday 20-3-55, the reason for this was clearly explained to them. In spite of this you and some others deliberately incited the workers not to go for work on 20-3-55. As a result of this 240 workers including you did not come for work on 20-3-55. It is also learnt that you forcibly obstructed even the workers who came. Your incitement not to go for work has caused an unjust strike and it appears to have been done with a view to foment indiscipline among the workers and thereby cause loss to the Mills. So in addition to the action intended to be taken under the notice put up on 24-3-55, you should show cause within 48 hours of receipt of this notice why you should not be dismissed from service."

Following this show] cause notice there was a sort of enquiry when a number of persons were examined and in the end the Manager has written a long order. The Industrial Tribunal, however, has not considered the points raised on behalf of the workers in connection with this enquiry and he observes "I need enter into the merits of the enquiry only in case the complainants establish that the management has violated the principles of natural justice in the conduct of the enquiry". As a matter of fact a complaint under Section 33 A of the Industrial Disputes Act, has to be heard like a reference and the award has to be given after entering into the merits of the case. Merely holding an enquiry is not enough but it must be a good enquiry in accordacce with established principles and the workers should be given due opportunity to make defence. Not only this but in the result of the enquiry there should be enough material on which the finding of the management could be based. It has been held by our Tribunal in the case of Buckingham & Carnatic Mills Ltd., *vs.* Their workers (1951 II L. L. J. p. 314 at p. 318) that the decision of the Management in relation to the charges against the employee will not prevail—if

(a) There is want of *bonafides* or

(b) It is a case of victimisation or unfair labour practice or violation of the principles of natural justice, or

(c) There is a basic error on facts, or

(d) There has been a perverse finding on the materials.

4. We have gone through the enquiry proceedings as held by the manager and we do not find there enough material to show that the workers were really guilty of the misconduct with which they were charged. The different witnesses have

stated that they were asked not to attend work on the particular Sunday but all this happened at different places at different hours far away from the premises of the factory. There is no evidence to satisfactorily establish that the alleged incitement took place at the factory and the workers though desirous of joining work, were prevented from doing so. Besides, whatever may be the Standing Orders of the Company mere striking work is not enough to sustain the charge and in this connection Shri Sankaran on behalf of the workers relied on the decision in the Punjab National Bank Ltd., *vs.* Their workmen (1952 II L. L. J. p. 648) and Ramakrishna Iron Foundry, Howrah *vs.* Their workers (1954 II L. L. J. p. 372). In the first case it has been held that modern concepts of social justice, would be outraged, if, the employer could dismiss the workmen for mere absence due to participation in such a strike and that it would not be conducive to industrial peace, in the present conditions to give the employer such an unqualified right. In the latter case, a similar view has been expressed by a Full Bench of our Tribunal, *viz.*, that the employer cannot be given an unqualified right to dismiss a workman simply because he has joined a strike which is ultimately found to be unjustified but the employer will have the right to dismiss a workman for joining such a strike (1) when the strike itself was not *bona fide* or (2) when it was launched on other extraneous considerations and not solely with a view to better the conditions of labour. It is true that the Management wanted to convert a Sunday into a working day by substituting another holiday in its place but at the same time when the workers objected to work on that particular Sunday, it should have been up to the Management to examine into the difficulties of the workmen, if any, and ought not to have proceeded merely on the so-called exercise of the rights under the Standing Orders. In our opinion, not only the euquiry has not been conducted in a proper and impartial manner from the correct point of view but even otherwise it does not disclose enough material to justify the order of dismissal made against the workmen concerned.

5. In the result, the award of the Industrial Tribunal is set aside and the Management are directed to reinstate the concerned workers on their original posts with back wages. The workers' appeal is allowed accordingly and the Management's appeal stands dismissed with costs assessed at Rs. 25.

(Sd.)
P. D. Vyas,
President.

(Sd.)
Mahmood Sheriff,
Member.

NOTIFICATION.

No. L. Dis. 13159/55/DD. *22nd March 1956.*

The award of the Industrial Tribunal, Trivandrum in respect of the dispute between Messrs. Sri K. Raman Pillai, Thazhavilayil Veedu, (Karuvallil), Chemmakkad, Perinad, Contractor of Toddy shop No. 27, Chemmakkad, Perinad and their workmen in the above shop represented by the Madhya Thiruvithamcore Chethu Thozhilali Union, Quilon received by Government on 16-3-1956, is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of His Highness
the Raj Pramukh,

V. V. JOSEPH,
Secretary to Government.

Government Secretariat,
Development Department,
Labour Section, Trivandrum.

Before

SRI K. PURUSHOTHAMAN NAIR, B. A., B. L.,

Industrial Tribunal, Trivandrum.

INDUSTRIAL DISPUTE No. 133 of 1955

Between

SRI K. RAMAN PILLAI,

Thazhavilayil Veedu, (Karuvallil), Chemmakkad,
Perinad, Contractor of Toddy Shop No. 27,
Chemmakkad, Perinad

And

THE WORKMEN IN THE ABOVE SHOP

Represented by

THE MADHYA THIRUVITHAMCORE CHETHU THOZHILALI UNION,
QUILON.

REPRESENTATION:

Sri G. Govinda Pillai)
and) Advocates for the employer.
Sri K. Balakrishna Pillai)

Sri T. K. Divakaran, President of the above Union for the workers.

AWARD.

The Government in their order L. 2-13159/1955/DD. dated 22-7-1955 referred the above dispute to the Industrial Tribunal Trivandrum and the same was registered as Industrial Dispute No. 133 of 1955. the parties filed their statement in the case and one witness for the workers' side was examined. The issues to be decided are:

"1. Is the non-employment of the eight tappers employed during the 1954-55 season justifiable? If not to what relief are they entitled?

2. Whether these tappers should be paid any compensation for loss of employment and if so at what rate and to what extent?"

While the dispute was pending evidence, the parties entered into an agreement out of Court. A Joint petition signed by Sri Raman Pillai, Contractor, and Sri T. K. Divakaran, the President of the Union was filed before me on 28th February 1956 praying that an award be passed in terms of the agreement. A memorandum of agreement reached by both parties on 27-2-1956 was also filed along with the above petition. I thereupon called both parties to be present on 13-3-1956 for the disposal of the above petition. On 13-3-1956 Sri Raman Pillai was present. His sworn testimony substantiates the fact of agreement. The memorandum of agreement was marked as Exht. A. The terms of agreement as contained in Exht. A are as follows:

"1. The contractor agrees to re-employ the 8 workmen concerned in the dispute during the 1956-57 season with effect from 15-3-1956.

2. The contractor will pay a lump sum of Rs. Three hundred and fifty only (Rs. 350 only) as compensation to the eight workers mentioned in term No. 1, in full and final settlement of all their claims for compensation in the said dispute. An amount of Rupees fifty (Rs. 50) will be paid by the Contractor to the Union towards costs. The amounts will be disbursed through the Secretary of the Union, forthwith.

3. This agreement will be in full and final settlement of all the claims of the workers in Industrial Dispute No. 133 of 1955."

I accept the terms of agreement and pass this award accordingly. This shall come into force from the date of publication according to Section 17 of the Industrial Disputes Act.

Trivandrum,
15-3-1956.

K. Purushothaman Nair,
Industrial Tribunal.

APPENDIX.

WW1 Sri R. Gopalan. Tapper—on behalf of the workers.
EW 1 Sri K. Raman Pillai, Contractor—employer.
Exht. A Memorandum of agreement dated 27-2-1956.

Gazette No. 14 dated 3rd April 1956.

PART I

NOTIFICATION.

L. Dis. 6776/56/DD. *24th March 1956.*

The following decision of the Labour Appellate Tribunal of India in Appeal No. Madras 7 of 1956 is hereby published for the information of all concerned.

By order of His Highness
the Raj Pramukh,

Government Secretariat,
Development Department,
Labour Section, Trivandrum.

V. V. JOSEPH,
Secretary to Government.

Before the Honourable Labour Appellate Tribunal of India.

II BENCH.

(Camp) Ernakulam.

APPEAL No. MADRAS—7 OF 1956.

Sri Thirumala Ramalingam Pillai, Ex-Secretary Cardamom Association, Cumbum. *Appellant*

Versus

Sri Ramiah Pillai, represented by the Regional Secretary, E. S. U. S. I., Kottayam. *Respondent.*

In the matter of an appeal against the award of the Industrial Tribunal, Trivandrum dated 11th November, 1955 in I. D. No. 103/1955 and published in the Travancore-Cochin Gazette No. 49 dated 13th December, 1955, Part I.

Ernakulam, Dated 12th March 1956.

PRESENT:

Shri Salim M. Merchant *President.*
Shri A. V. Krishna Rao *Member.*

APPEARANCES:

Sri R. Ramalinga Iyer, Advocate for the appellant.
Sri P. Balagangadhara Menon, Advocate for the respondent.

STATE:—Madras.

INDUSTRY:—Miscellaneous.

DECISION.

By consent of both parties, and upon the appellant agreeing to pay the respondent Rs. 100 as costs on or before 12-4-1956, the award is set aside and the matter is remanded to the Industrial Tribunal, Trivandrum for a proper enquiry and adjudication on the merits. In default of payment of costs by the date fixed, the appeal will stand dismissed.

(Sd.) SALIM M. MERCHANT,
President.

(Sd.) A. V. KRISHNA RAO,
Member.

G. 996.